

**Application number: 09/922489      Art Unit: 3694**  
**Applicant: Khai Hee Kwan      Examiner: Susanna M. Diaz**  
 Title: Method, apparatus and program for pricing, transferring, buying, selling and exercising of financial options for paying educational course fees

REMARKS-CLAIMS

All rejections are based on 103(a) by the examiner using ONE reference.

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-Summary-

The Table A below shows differences between the cited prior art 20020004782 by the Examiner (herein Cincotta) and the applicant's Claims 30, 60, 66.

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Table A

<b>20020004782/ Cincotta</b>	<b>Current Application Claims 30,60,66 (underlined in ( ) means claimed elements found in claims)</b>
The choice of which Institution will actually provide the services is to be made at the sole discretion of the Participant, at the time the option is exercised. ( Para 0027).	The user selects the course and institution at the time of purchasing the option before the option is even created. ( <u>See element : ...for a selected course...to selected institution...</u> )
The measure of educational services that may be purchased at the Strike Price is preferably expressed in years of full-time enrollment, or fractions thereof. Alternatively, it may be expressed in terms of credit hours. To account for the fact that	Instead of purchasing option on selected course/selected institution, Cincotta teaches purchasing "credit hours". Because it is unknown at the time of purchase which Institution will be selected, Cincotta teaches buying different amounts of credit

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each of the various Institutions charge different amounts for the same measure of education, the contract may specify, for each member Institution, a separate and distinct measure of educational services that may be purchased. For example, the contract may specify that the Participant has an option to purchase one-year of education at a first Institution, one-half of a year of education at a second, more expensive Institution, or two years of education at a third, less expensive Institution, with the choice being made by the Participant at the time the option is exercised. (Para 0029)

It is another object of the present invention to provide a system and method that allows a consumer to prepay for such services or goods in situations where the consumer, at the time or the prepayments, will not know the entity from which he will want the services or goods to be provided. (Para 0015)

hours from a number of institutions (like a portfolio). This is by not means selected course or selected institution as seen because although Cincotta did specify the institution and the credit hours to purchase, Cincotta also teach purchasing NOT one but a plurality of them. Purchasing a plurality of these credit hours at various institutions is only the means of ensuring that when the user has to exercise, he has more choices (see last sentence para 0029) to select (a deferred consideration). Therefore buying a plurality is merely a strategy to account for as many possibilities rather than a conscious choice of selecting a course/institution at the time of purchasing the option as claimed.

It is clear that Cincotta teaches NOT to select the entity ( education institution) as it is *unknown* at the time of purchasing the option contrary to claimed elements.

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<p>The option may be exercisable by the Participant at any time following the execution of the Contract up to its expiration date, or alternatively may be exercisable only after some specified date (a "Maturity Date"). (Para 0027)</p> <p>Its difficult to understand how one could exercise at any time up to expiration date or thereafter in Cincotta unless gaining admission is not a factor or condition of exercising the option, <b>therefore away from Cincotta's teaching.</b></p>	<p>The user may only exercise the option upon being admitted by said selected institution.</p> <p>(See element: ... with an education option having a right but not an obligation to pay said future education fee for a selected course on condition of being <u>offered admission</u> to the selected course by selected institution before commencement date of the selected course for said user.)</p>
<p>The option is preferably a deep-in-the-money option (a "DIM"), i.e., an option in which the Strike Price is very low in comparison to the Premium. For example, a Strike Price of one hundred dollars, ten dollars or even one dollar may correspond to a ten thousand dollar Premium, with the measure of educational services that may be purchased at the Strike Price being roughly equivalent to the measure of educational services that could have been purchased for ten thousand dollars at the time the contract was executed. (Para 0028)</p>	<p>The option premium is calculated (<u>Calculating an education option price....</u>)</p> <p><b>Cincotta relies on the premium being roughly equivalent to the same that could be purchased at time when contract was executed with the strike price as a 'token'. In fact Cincotta, method is likened to prepaid ( See para 0073) with the strike price being a small token payable in the future to purchase the prepaid services. <u>In any event, Cincotta fails to show that its premium is calculated.</u> Furthermore, without this</b></p>

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Clearly the premium paid here is not dependent on individual education information and conventionally, there is no facility that price education cost according to the user's education information. For example a MBA is priced according to whoever is applying and is not varied due to user's education information.	<b>calculation element, it is obvious Cincotta's premium is the same for all requesters without able to tailor to individual's education information which deviates from this claimed invention.</b>
Unknown	database with first data of volatility ( <u>data structure comprising first data representative of volatility...</u>
Taken as a whole, the difference must be seen in the light that this claimed invention provides for calculated option premiums for selected courses at selected institution and its premium varies in accordance to inputted education information by user. Even a single reference used in obviousness rejection must provide an apparent reason to show why one skilled in the art would modify. See B.F. Goodrich Co. v. Aircraft Breaking Sys. Corp., 72 F.3d 1577, 1582, 37 USPQ2d 1314, 1318 (Fed. Cir. 1996). While it is noted in the recent Teleflex V KSR case in regards to TSM test, such test being helpful but not controlling, the fact finder still must "determine whether there was an apparent reason to combine ". This would suggest "teaching, suggestion, motivation" is now replaced by "apparent reason" which will be similarly applicable for a single reference. The examiner provided no apparent reason for Claim 30. If there is any inherent teaching, these were not reasoned by the examiner and hence unknown.	

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Claim 30,60,66

Note Claim 60,66 are different class to Claim 30 and rewritten as independent claims (previously these claims were dependent 38,46).

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Using Claim 30 as the representative, the examiner has asked the applicant to show that Claim 30 is patentable in view of the prior art.

The amended Claim 30 recites connected to a computer having data structure having  
10 first data representative of volatility for education course prices, which the Cincotta's reference fails to show because there is no need for Cincotta to calculate premium given its premium is the same for all users (convention dictates that say a MBA is the same price for all applicants and Cincotta also use the same price as premium also known as prepaid - see para 0028). The amendment also includes updating said data  
15 structure with said education option.... Updating education option is found in specification pg 23 line18. The limitations "a right but not an obligation to pay said future education fee for a selected course on condition of being offered admission to the selected course by selected institution before commencement date of the selected course" were previously found in the claim. As mentioned, Cincotta appears to teach  
20 his option to be exercisable at will (para 0027).

Claim 30 is therefore patentable over the Cincotta's reference and for the further reason because the examiner also failed to provide an apparent reason why one skilled in the art would modify so (hence no prima facie is on footing). The examiner shows  
25 no differences as above between the Cincotta and the claimed invention nor articulate the type of skill in the art that would be assumed by the skilled artisan in order to modify.

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As submitted not all elements are found, Cincotta fails to show that it could determine or calculate an education option price for a selected course for a selected institution where the option gives only a right but not obligation to pay the fee. Cincotta only show that the option price is one that is deep in the money (DIM) where the strike  
5 price is measured is very low compared to the premium. Cincotta provided no teaching as to how this premium/price is calculated but stated the example that it must be big when compared to strike price (Para 0028).

Taking the example in Cincotta of a strike price of 100, 10 or 1 dollar to be able to  
10 purchase education service equivalent to the premium. The strike price of 100 dollars means the premium is 10,000 dollars as this is equivalent to 10,000 dollars worth of services today. (See para 0028, being the ONLY teaching as to how premium is found). It is submitted that the premium of 10,000 is not by calculation and is merely the equivalent to what is worth of today education services.

15 The applicant respectfully submits that this is really a prepaid based on current price of education and not a calculated method. ( See para 0014) Even if this equivalency is to read as ‘calculated’ (which is denied) it is clear that Cincotta fails to consider that such premium/price does not correspond to any selected courses or at selected  
20 institution, nor based on user information. At Para 0027, Cincotta teaches that the choice of Institution and services is at the discretion of the user at the time the option is exercised. At Para 0015, Cincotta teach “allows a consumer to prepay for such services or goods in situations where the consumer, at the time or the prepayments, will **not know the entity** from which he will want the services or goods to be  
25 provided” which is clearly contrary to the claimed invention of calculating an option premium based on a selected course offered by selected institution.

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This clearly means unlike the applicant's price which is calculated with volatility of course price, Cincotta's user need only paid an amount equal to today's services course similar to 'prepaid'. Therefore Cincotta's premium/price does not teach the applicant's elements and is really a prepaid service (See Abstract) in substance. The  
5    overwhelming evidence shows it is a prepay including in the prosecution history of Cincotta. Furthermore, the premium in Cincotta is equal to whatever is today's price for equivalent education services (Para 0028) and given that conventionally education cost is the same for all users (ie University does not discriminate price according to academic excellence or user's desirability) then Cincotta's premium is also the same  
10    for all users which is contrary to "... to contract the future education fee amount as determined by the user's education information" which means both input & output are determined by user and hence resultant different premium.

The examiner has provided Para 27,33,40-65 which is not disputed but para 33 deals  
15    with the practicality of dealing with a large premium which Cincotta suggests to be in smaller amounts as premiums paid for each new contract etc. The applicant submits this has nothing to do with calculating a premium. It is merely a way to make payment more affordable by spreading it over a period.

20    As for Para 40-65, this deals with "A determination process that predicts the total measure of educational services that will be required from each Institution by the aggregate of the Participants will now be described". However this relates to the Administrative Company having the need to determine what it should buy from each institution and not the user. It is also pertinent to note this "education service" is  
25    defined to be "The measure of educational services that may be purchased at the Strike Price is preferably expressed in years of full-time enrollment, or fractions thereof. " ( See Para 0029). Obvious a TIME measurement is NOT the same as a particular course at a selected institution. For example a purchase of one semester at

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University XYZ is not the same as purchasing one semester doing a law degree given that a law degree usually cost more than a language course hence by buying TIME could not inherently show buying a semester of a particular course. In the claimed invention, the user decides which course and institution he or she wants to attend  
5 which in turn determines the price of the option which is then subject to gaining admission.

Cincotta also fails to show this ‘gaining of admission’ as condition to exercise and teaches its option to be exercisable before or after a maturity date which fails to meet  
10 this claimed invention’s element “...on condition of being offered admission to the selected course by selected institution...” As mentioned, it appears there is no condition to exercise in Cincotta as it teaches before or after maturity date ( Para 0027).

15 Given the many stated differences, the examiner had not shown what skill is required, how one skilled in the art would modify from a premium which is equivalent to what one can buy of today’s services (but without knowing the education entity) to a calculated premium based on a selected course and selected education entity. Even if this modification could be done, it is further submitted this is contrary to Cincotta’s  
20 own objective of not including the unknown education entity which is beyond the ordinary skill of the artisan in view of Cincotta. For example, Cincotta taught of purchasing a ‘portfolio’ of strike prices with different credit hours with different institutions so that users have more choices at time of exercise. (Para 0029) This clearly shows it is beyond one skilled in the art to be able to price said option in  
25 accordance to a selected course at a selected institution.

Obviousness-Network



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The examiner pointed to Para 22-24 of Cincotta, which deals with the need for a LAN/WAN within the Administrative Company and maintain a database of member institutions and participants.

5    The examiner also suggested that it would be obvious to combine with teachings in the financial art of financial planning for a customer to request over a network in order to quickly and efficiently facilitate transactions among remotely located parties. ( at page 7, Third para of Action Letter) The examiner further reasoned that such use is to reach a large number of customers by Administering Company. It is noted by the  
10    applicant that the examiner has taken official notice here.

Firstly, to the extent this Office Action relies in part on purported knowledge of one skilled in the art at the time of the invention, in accordance with 37 CFR 1.104(d)(2) and to preserve Applicant's argument on appeal, Applicant requests the examiner to  
15    provide an affidavit that supports the rejection of any claims based on the official notice, common knowledge, or personal knowledge of the Examiner, or provide a reference demonstrating the purported common knowledge in the next office action.

Why there is no need to submit directly to a network in Cincotta ?

20

1. It is clear there is no evidence for Cincotta's invention for any calculation of premium/price as it suggest/prefer a price equivalent to current cost ( Para 0028). This means the cost of premium is more or less known by the user to be the same for ALL requesters as this is in line with convention of charging the same fees for all  
25    applicants (ie a JD is the same price whoever applies regardless of marks scored). There is no need for requester to input information to revise the education information as the price will always be the same. There is also no need for the user in Cincotta to

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select course or institution at the point of purchase so this further strengthen the case there is no need to submit further information over a network.

2. There is also a distinct difference between ‘submitting financial data to request  
5 financial services’ and ‘to submitting education information in order to contract a future education fee’. There is no evidence to show one skilled in the art having knowledge to submit financial data over a network will find it obvious to use the same network to submit education information to determine an education option price given this subject matter ‘pricing of education option’ is not known. (Cincotta fails to show  
10 calculating as rebutted above) While financial services have been making headways with online transaction such as brokering, there is no evidence that such transaction is similar to buying education option. Most importantly, these financial services are for purchasing or selling of ready stocks (stocks on secondary market) while in Cincotta, the transaction involved options that are yet to be created or about to be created but  
15 not ready to be transacted as if they are already in existence in view to pre-owned stocks in secondary markets.

3. Obviousness requires the showing of an apparent reason to use education information over a network to determine education option price and for user to pay for  
20 said option ( the claim as a whole). Perhaps in the name of efficacy, the examiner merely submits that it is obvious to use a network since the success of Cincotta’s invention relies on reaching broad base customer. It is well known that despite millions of electronic business online (say on the Internet) less than 10,000 of these are successful (in commercial terms), by the applicant’s best estimate. And even  
25 popular search engine google which does not provide education service could only reach less than 30 % of all online users at any one time.

Therefore, the point of merely networked to millions of computers online does not necessarily mean one will be able to reach a large customer base as reaching is distinct to being physically network ensuring success as submitted by the examiner nor is it obvious given the reasoning in point 1 and 2 above. To ensure success by  
5 reaching, this requires something further like online advertising which is why Google's business model hinges on able to convince other online businesses to use its advertising service to ensure success. In fact this is the main profit model for Google in view of its search engine. If by merely being online or network for submission, is equivalent to a guarantee of success (ie to supply "apparent reason") by reaching  
10 millions as suggested by the examiner then there would not be a need for Google Adword or Adsense programs. If the proposition by the examiner is that by merely network to millions of computers by plugging into the internet, any entity is ensured of reaching out and hence success then with respect this is flawed on the face of the well known facts above. The most prized company on the Internet makes its business  
15 in helping other companies which are already networked (for whatever reasons) to the Internet to reach out to their customers on the assumption (rightly or wrongly) that their search engine attracts (pull all type of users before directing them to their clients) first rather than "network and they will come." If the applicant is wrong here, then the applicant wish to ask the examiner for evidence so in order to rebut the above.

20 The examiner further states that a network would make it quickly and efficiently facilitate transactions among remote parties ( at page 8 of Action Letter) as it adds convenience of not having to travel. The applicant in response say that this line of reasoning is with hindsight analysis rather than by common sense. The convenience of  
25 "not having to travel" fails the common sense test since travelling does not have any role in making transaction more efficient as the latter is independent to a network.

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A transaction is processed by Administrative Company in Cincotta only when it completed or when all information are presented and verified which is independent to being network to provide efficiency. While it is admitted that a network will ensure an application gets to the Administrative Company in seconds rather than weeks for  
5 remote users, this does not necessary means the same application will be processed within a second or more efficient when it is submitted over a network. It still requires other processes like verification, checking of grades etc to be done internally which are independent to a network. For example, online applications at University is pretty common today but it does not mean the minute we submit an application, we will  
10 know whether we get a placement. So whether we send it by post or online, the application will not be processed any faster, quicker, more efficient and therefore this could not be an apparent reason as alluded. Obviously again if the applicant is wrong, then the applicant respectfully ask for evidence from the examiner in order to properly rebut this proposition.

15

The applicant respectfully asks for these claims to be allowed.

Claims 31, 61, 67

20 These claims have been completely re-written. The applicant respectfully ask the examiner to allow these claims as there is no teaching in Cincotta to pay to the education institution by said user. Cincotta teaches by using the Administrating Company as middle man & conduit. ( See para 70 and 71). There is no teaching that Cincotta's invention could function without this middleman (Administrating  
25 Company) and it is also not obvious to exclude this as it is the central piece in Cincotta's invention.

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Unless there is a further showing of an apparent reason to discard Cincotta's Administrating Company, the applicant respectfully ask the examiner to allow these claims.

5      Claims 32, 62,68

The examiner provided para 0036 and 0068. The applicant respectfully traverses.

10      Para 0036 shows “[0036] In a preferred aspect, the software program that implements the present invention is capable of processing a given Participant's data record to determine the total amount of educational services at a given Institution which the Participant has options to purchase under all of the contracts that have been executed, plus the outstanding balance of Premiums paid but not yet applied to a contract. This information may be provided in hard copy or electronic form to a Participant for  
15      whichever of the member Institutions are requested. “ and Para 0068 shows “[0068] When a named Beneficiary is ready to enroll in a certain Institution, the Participant may exercise all of the options (or part of the options) that have been acquired by requesting a voucher from the Administrating Company the educational services which the Administrating Company has contracted to provide, and paying to the  
20      Administrating Company the requisite Strike Price or Strike Prices. Upon such a request, the Administrating Company will provide to the Participant **a voucher for the specified measure of services, preferably expressed in terms of years or fractional years at a specified Institution.** Once a voucher for a certain measure of services has been provided, the Participant's data record is updated to reflect that the  
25      Participant now has exercised his options (or part of his options, as the case may be), and now has options on a new, lesser measure of educational services (or no more options, as the case may be). The particular Institution's data record is also updated to reflect that a voucher has been issued which when redeemed will require the

Institution to actually provide a certain amount of educational services in fulfillment of one of the earlier entered into forward contracts with the Administrating Company.  
“(end of quote)

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The applicant's claims show that the education option has been purchased and update a database. The applicant respectfully submits that para 0036 merely shows a process of determining what education service (ie amount of time in hour credits) that can be purchase with those options which is different to receiving an indication user has  
10 purchased said option (remembering that this claimed option includes a selected course with a selected institution of user's own choosing at time of purchase and not at time of exercise as in Cincotta).

While Para 0068 shows updating, it does so only when an option is **exercised** which  
15 is not the same as claimed here, “updating a database to reflect the SALE of said option”. Even if the applicant is wrong (which is denied), these claims are dependent on the 30,60,66 which are not obvious. Furthermore the above differences have not be articulated to show how one skilled in the art with an apparent reason who modify to reach this claimed invention. Even a single reference must include this apparent  
20 reasoning for obviousness rejection. See B.F. Goodrich Co. v. Aircraft Breaking Sys. Corp., 72 F.3d 1577, 1582, 37 USPQ2d 1314, 1318 (Fed. Cir. 1996). While it is noted in the recent Teleflex V KSR case in regards to TSM test, such test being helpful but not controlling, the fact finder still must “determine whether there was an apparent reason to combine”. This would suggest “teaching, suggestion, motivation” is now  
25 replaced by “apparent reason” which will be similarly applicable for a single reference. The examiner provided no apparent reason. If there is any inherent teaching, these were not reasoned by the examiner and hence unknown.

The applicant respectfully ask the examiner to allow these claims.

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Claim 33, 63, 69

Using Claim 33 as representative.

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Firstly the examiner sought to explain that Cincotta evaluates option sale price based on historical data...and use Para 0040-0065 as evidence. The applicant respectfully disagrees. The only time Cincotta explains how he got his price/premium is in Para 0028. The paras 0040-0065 describes how the Administrative Company plans to  
10 hedge its portfolio of naked options sold by determining which education services (time rather than specific education courses) to buy forward with education service provider. As noted at beginning at Para 0040, it is stated "A determination process that predicts the total measure of educational services that will be required from each Institution by the aggregate of the Participants will now be described" and ending at  
15 Para 0065, it reiterate that all these data being updated is to be used for "as a predictor of the measure of educational services for which the Administrating Company should contract." which has nothing to do with pricing of education option.

The examiner provided at page 8 of Action Letter, reasoning that "art of price  
20 optimization is well known" to show obviousness for "the Administering Company to more accurately gauge a reasonable price of the education option in its market". This reasoning stood on Official Notice which again the applicant must call for evidence as provided in 37 CFR 1.104(d)(2) with its full effect as stated above in claim 30.

25

The applicant submits that Cincotta was teaching using the sold options to determine what is needed to buy (forward) with the service providers (ie education service in the form of time) and NOT as claimed using these sold option to determine the option

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price for user in claim 30 which it depends, said user is YET to buy any options at this stage of calculating. As mentioned, Cincotta taught its premium/price of its "option" as determined in Para 0028 to mean for an example Ten thousand dollars premium to being roughly equivalent to what ten thousand dollars can buy at today's prices. And  
5 it is well known in the art that education price is the SAME for all requesters, ie MBA at Harvard will be US 48000 a year no matter who applies in 2006. Since this same price is according to Cincotta equivalent to its premium then where is the need for price optimization ? How can one optimize a price which is the same for all ? That is to say that by convention education prices is well known to be fixed no matter who  
10 applies and set by the education providers and these are the same for Cincotta's premium (like prepaid See Para 0028), hence the above teaching could not be connected with price optimization to determine price of an education option. Even if the applicant is wrong which is denied, at best the above cited teaching in Cincotta in view of the examiner's submission deals with option information to optimize  
15 purchasing of education services by Administrative Company with education service provider. It is not for optimizing the price of an education option for user as claimed.

Further evidence shows that Cincotta often refers to his premium as prepaid (See Abstract first line) which is consistent with Deep In the Money (DIM) option often  
20 with a huge premium equal to today's price of similar offering. Also see the presentation of voucher (See Para 0068) which is clear evidence showing a prepaid system else why used voucher to redeem from these education providers. A voucher is consider a claimable receipt issued by the first party that has already paid in view to collect by a party other than first party.

25

In contrast, our price is calculated based on individual user's education information, for example an user who is more desirable may be given a lower price resulting in upper and lower boundaries which must be consulted later before finalizing the price.



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Therefore, each price may be different for a particular option according to user selection/information even if volatility of prices remains the same.

The applicant respectfully ask the examiner to allow these claims.

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Claim 35, 64,70

10 The examiner provided para 0066 to show prima facie obviousness. Para 0066 is produced below for ease of referencing “[0066] As a Beneficiary comes closer to attending college, even more helpful information should be provided, such as a listing of specific Institutions the Beneficiary may be interested in attending, a listing of specific Institutions to which the Beneficiary has applied, a listing of specific Institutions to which the Beneficiary has been accepted and from which the

15 Beneficiary has been rejected, and ultimately an identification of the specific school in which the Beneficiary will enroll. As this information is provided, the Administrating Company may then modify its tables to distribute the Beneficiaries' probability of enrollment among only those schools in which he is interested, to which he has applied, to which he has been accepted, and ultimately to which he will enroll. All of

20 these updates will make the determination process even more accurate, and ultimately virtually one hundred percent accurate with respect to the given Beneficiary, and therefore more accurate overall. “ ( underlined mine for emphasis)

25 Para 0066 describes that more data are being provided to the Administrative Company to enable it to make determination process as to which services to buy forward. These data is provided to the Administrative Company to help it better determine the probability of narrowing among only those schools to which user has applied, accepted and will enroll. These data is provided as “As a Beneficiary comes closer to

attending college..”. On the other hand, in this claimed invention, there is no Administrative Company and the user decides which course and which institution he or she wants to attend at the outset when purchasing the option as seen in Claim 30,60,66. It is submitted that in the current dependent claims, the user sends a request to exercise the option. As mentioned in the dependent claims, the option gives a right but not obligation subject to gaining admission to selected course. This limitation show that a course had been previously selected. Para 0066 makes no mentioned of any selected course. Para 0066 describes using data use for determining which institution the user will be enrolling. The difference as highlighted earlier is that Cincotta’s system is not able to sell an option that is based on selected course and/or selected institution. ( See Para 0015) The word “selected” as found in the current claims are important to show that these courses and institutions are selected when the option is purchased (in part needed to determine the premium) and not years later when the user is about to enter colleges as taught by Cincotta. (Para 0066).

In this claimed invention, it should be noted that element “verifying if user has been admitted to the selected course” is not found in Cincotta. The examiner appears to equate “a listing of specific Institutions to which the Beneficiary has been accepted” to be inherently the same as admitted to the selected course. This is flawed since admission to a specific Institution does not necessarily mean to a selected course. For example an user may be admitted to Harvard but not necessary to his selected course, say Law ? The inclusion of this course is material as this will also affect pricing of the premium given some courses are more in demand and some not so. It is also pertinent as explained earlier that Cincotta teaches purchasing of “credit hours” which is not the same as specifying which course to purchase.

As mentioned, while Cincotta has more choices not only in terms of exercise but also the course and institution right to the time of admission, then what could the apparent

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reason be to modify to reach this claimed invention which fixed the course and institution at the outset ? The examiner made no mention of this to show it is obvious, hence it is unlikely prima facie has been made.

5      Furthermore at time of exercise, it is obvious in Cincotta that the user is given a voucher whereby the education institution must honored later (see Para 0068). It is not known in the payment art that Voucher which is expressed in **terms of years or fractional years at a specified Institution (See Para 0036)** can be used as legal tender when “performing an online financial transaction to pay the education fee...to  
10      selected institution”. It is not known in the art that an expression in fractional years or credit hours in a voucher is a substitute to pay education fee which is expressed in dollars.

No apparent reason is provided by the examiner to show Cincotta could modify its  
15      voucher so to enable making a financial transaction to pay the education fee. The voucher is found because as mentioned in Cincotta, payments made by user is made to the Administrative Company which in turns secure services with education service providers. Therefore, the voucher is used to redeem the services (**not pay**) on behalf of the Administrative Company by the user. Given the well known function of a  
20      voucher (as a receipt), it is not possible to convert/modify a voucher so it could operatively be used to pay the education fee...to selected institution because a voucher is a representation of a previous payment and hence cannot be modify to facilitate payment of “education fee” (expressed as dollars) again. It is unknown in the art to modify vouchers to money. Most voucher expressly states it cannot be  
25      redeemed to cash.

The presence of voucher is indicative of Cincotta’s design using a middleman (Administrative Company) contracting future services with said institutions and for it

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to redeem its education services for its clients (those that bought options). In contrast, in this claimed invention the user has not pay the contracted education fee amount (NO prepaid) but only with the premium at the outset, hence a need to pay the fee by online transaction to selected institution upon exercised. Therefore by replacing the  
5 voucher with a more direct payment, this may cripple Cincotta's middleman arrangement and makes it unworkable as Cincotta fails to show it users paying directly to these institutions given these are unknown from the outset. ( Para 0015)

Furthermore the above differences have not be articulated to show how one skilled in  
10 the art with an apparent reason to modify to reach this claimed invention. On the footing of prima facie, even a single reference must include this apparent reasoning for obviousness rejection. The applicant respectfully ask the examiner to allow these claims.

15 Again, to the extent this Office Action relies in part on purported knowledge of one skilled in the art at the time of the invention, in accordance with 37 CFR 1.104(d)(2) and to preserve Applicant's argument on appeal, Applicant requests the examiner to provide an affidavit that supports the rejection of any claims based on the official notice, common knowledge, or personal knowledge of the Examiner, or provide a  
20 reference demonstrating the purported common knowledge in the next action letter.

Claims 36, 65,71

All the claims have been amended and are in allowance given there is nothing in  
25 Cincotta related to calculating nor any of the variables found. The applicant respectfully asks the examiner to allow them.

Claim 51,72

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Amended Claim 51 is the method claim while Claim 72 is an article claim. Using Claim 51 as a representative, the applicant submits that Cincotta fails to teach user selecting education institution. As mentioned, Cincotta teach against selecting any entities at the time of purchase said option as this is unknown ( Para 0015). The  
5    amendment includes making an offer price by user based on selected education institution and is less than education fee. Cincotta teaches Deep in the Money (DIM) and provides its premium (offer price here) to be equivalent to an amount to what education services is purchasable at today's cost (Para 0028) which means larger than the future education fee (strike price in Cincotta stated to be 100,10, 1) In contrast as  
10    amended, this claimed offer price is less than the education fee, ie a fraction of the larger future education fee using base price option. In specification pg 18, base price is 30 % but in any event always less than the education fee (ie Out of Money option).

Therefore, the applicant submits these claims are allowable.

15

#### Claim 54

This claim has the added element of "to generate a display output reflecting the education option price and pricing information of different option offers" which is  
20    submitted is not found in Cincotta. This element finds support in Fig 9.

While a terminal is useful even in Cincotta for inputting of information, this is however not the same as generating a display output that reflects pricing information of different option offers. Where obviousness is based on the convenience of  
25    communicating over network, we incorporate our previous submission in Claim 30 above.

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To recap, there is little evidence to show that convenience is the motivation or apparent reason in Cincotta given that option premium (is like prepaid) is equivalent to current prices of similarly measurable education service. For example, conventionally, a MBA or JD is priced the same no matter who (rich or poor) applies and the same is sought by Cincotta as he made reference to its premium being “Deep in Money” (DIM) of the current prices to purchase the same service today (Para 0028).

It is clear Cincotta made no mention of the different prices (by calculating) is different for different users based on their education information. It is also clear Cincotta fails to show a display of different education option prices available based on a single user’s education information primarily because Cincotta’s premium is fixed to what is equivalent to what can be purchased at today’s price, so there is ONLY one price for ALL users/applicants.

The applicant respectfully asks the examiner to allow this claim.

#### Claim 55

This claim is dependent on claim 54 and relates to purchasing said option by user. While Cincotta teaches to purchase an option, the applicant submits that Cincotta does not teach transmitting said user’s request to purchase and “payable to the selected institution.”. Cincotta uses an Administrative Company as the middleman and this theme is widely read as an integral part of his design/invention whereby said middleman is paid by the user.

Furthermore, the above differences have not been articulated to show how one skilled in the art with an apparent reason to modify to reach this claimed invention. On the

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footing of prima facie, even a single reference must include this apparent reasoning for obviousness rejection. The applicant respectfully ask the examiner to allow this claim.

5      Claim 56

This claim is dependent on claim 54 and relates to exercising said option make payable to the selected institution. Cincotta teach paying the strike price (contracted education fee ie 100, 10, 1) to the Administrating Company ( para 0068). In return,  
10      Cincotta teaches user receiving a voucher which is then used to claim/redeem education services ( See para 0068 and 0069) instead as claimed of a financial transaction satisfying the contracted education fee (ie strike price) payable to selected institution as claimed. It is not known in the art that a voucher ( as expressed in **terms of years or fractional years at a specified Institution (See Para 0036)** is the same  
15      as money to “perform a financial transaction satisfying the contracted education fee amount payable to the selected institution”. Conventionally, a voucher is merely evidence of payment (receipt) to redeem a service or goods previously paid as distinct to satisfying the contracted education fee which requires money. If user in Cincotta has already been paying through a series of prepayment to the Administrating  
20      Company years earlier then it would be uncommon to ask said user to pay a fee to selected institution at time of exercise, effectively paying TWICE.

Furthermore the above differences have not be articulated to show how one skilled in the art with an apparent reason to modify to reach this claimed invention. On the  
25      footing of prima facie, even a single reference must include this apparent reasoning for obviousness rejection. The applicant respectfully ask the examiner to allow this claim.

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Claim 58

The applicant submits that while Cincotta uses an intermediary (administrative company) to contract with education service providers, this does not however shows it is an exchange. The applicant respectfully ask the examiner to allow this claim.

Claim 59.

The applicant verily believes this claim is still in allowance, despite being broader than previously because Cincotta fails to mention calculating. The amended claim includes only 4 factors, ie Base, Time, Volatility and Desirability. It also includes “subject to admission”. As mentioned, in Cincotta it appears that Cincotta’s option fails to consider this ( See rebuttal in Claim 30 and specifically Para 0027) which is unconventionally unless one see it is really a prepaid (in substance) but with the added feature of an option ( in form) to allow it to be exercised before maturity or after. TABLE B below summaries the differences between the substance and form of real options and prepaid. Assuming NO cost of funds.

TABLE B

Options		Prepaid	
Premium – calculated by formula dependent on user information	Strike Price/ Future Education Fee – set by user	Premium (same as current equivalent price – set by education service provider)	Strike Price – set by user
1000	11000	10000	100
100	11900	10000	10
1	12000	10000	1



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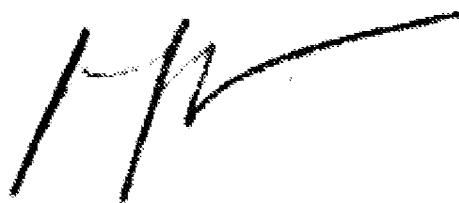
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Therefore, the applicant could only conclude (despite the language used in Cincotta) it is really a prepaid in substance. This is restated in [0027] In the most basic form of the pre-paid college tuition embodiment, a Participant enrolling in the plan will enter into a contract with the Administrating Company whereby the Participant transfers to the Administrating Company some sum of money (a "Premium"), and in return receives from the Administrating Company a call option giving the Participant the right to purchase, at some point in the future, a specified measure of educational services for the Beneficiary from any one of the Institutions for a specified amount of money (the "Strike Price").

Yours truly,

P.O.Box 1178

Sandakan 90713, Sabah, Malaysia



Khai Hee KWAN  
8 August 2007

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**Requirements for information under 37 CFR 1.105**

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